

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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JAMAL R. WASHINGTON, As Administrator
of the Estate of FRANCES DELANCEY WASHINGTON
and PAUL WASHINGTON, Jr.

08 CIV 4566

ANSWER

Plaintiffs,

v.

NATIONAL FREIGHT, INC., and
JOSEPH M. BOOR, JR.

Defendants.

-----X
Defendant, NATIONAL FREIGHT, INC., by and through its attorneys, Goldberg
Segalla LLP, as and for its Answer to Plaintiffs' Verified Complaint, alleges as follows:

JURISDICTION

FIRST: The defendant denies all allegations in the form alleged contained
in the paragraphs of the Verified Complaint DESIGNATED as "1" and "2."

JURY DEMAND

SECOND: The defendant denies knowledge or information sufficient to form
a belief as to the truth of the allegations contained in the form alleged contained in the
paragraph of the Verified Complaint designated as "3," but admits that paragraph "3"
states that plaintiffs demand a trial by jury.

AS AND FOR AN ANSWER TO THE FIRST CAUSE OF ACTION:
(NEGLIGENCE)

THIRD: The defendant denies knowledge or information sufficient to form a belief as to the truth in the form alleged contained in the paragraphs of the Verified Complaint designated as “4”, “22”, “23”, “24”, “25”, and “28.”

FOURTH: The defendant denies knowledge or information sufficient to form a belief as to the truth in the form alleged contained in the paragraphs of the Verified Complaint designated as “5”, and “6”, and refers all questions of law to the Court.

FIFTH: The defendant admits in the form alleged contained in the paragraphs of the Verified Complaint designated as “8”, “10”, “13”, “19”, “15”, “21.”

SIXTH: The defendant denies all allegations in the form alleged contained in the paragraphs of the Verified Complaint designated as “7”, “9”, “11”, “12”, “14”, “16”, “17”, “18”, “29”, “30” and “31.”

SEVENTH: The defendant denies the allegations in the form alleged contained in the paragraph of the Verified Complaint designated as “20,” except admits that defendant Joseph M. Boor was employed by defendant NATIONAL FREIGHT, INC.

EIGHTH: The defendant denies all allegations in the form alleged contained in the paragraphs of the Verified Complaint designated as “26” and “27,” except admits that the two vehicles came into contact.

AS AND FOR AN ANSWER TO THE SECOND CAUSE OF ACTION:
(WRONGFUL DEATH)

NINTH: In Answer to the paragraph of the Verified Complaint designated as “32,” defendant repeats, reiterates and realleges each of the responses set forth in paragraphs “FIRST” through “EIGHTH” of this Answer with the same force and effect as if they were set forth fully and at length herein.

TENTH: The defendant denies all allegations in the form alleged contained in the paragraphs of the Verified Complaint designated as “33”, “34”, and “35”.

FIRST AFFIRMATIVE DEFENSE

Upon information and belief, all or part of the costs of plaintiffs’ medical care, loss of earnings or other economic loss have been paid, replaced, or indemnified in whole or in part from collateral sources or with reasonable certainty will be replaced or indemnified in the future from such collateral sources and, to that extent, the answering defendant requests that in the event plaintiffs recover any judgment herein, that such amount as has, have been, or may be recovered in whole or in part from collateral sources reduce plaintiffs’ recovery by said amounts.

SECOND AFFIRMATIVE DEFENSE

Upon information and belief, plaintiffs failed to make use of available seatbelts.

THIRD AFFIRMATIVE DEFENSE

Plaintiffs are obligated to mitigate their damages.

FOURTH AFFIRMATIVE DEFENSE

Plaintiffs may violate the Double Jeopardy Clause because the answering defendant could be subject to multiple awards of damages for the same set of acts.

FIFTH AFFIRMATIVE DEFENSE

Plaintiff's decedent, Frances Delancey Washington, was contributorily negligent, and as a result, her Estate is barred from recovery against the defendant.

**AS AND FOR A COUNTERCLAIM AGAINST THE ADMINISTRATION OF
THE ESTATE FOR NEGLIGENCE**

If the answering defendant is held liable to the plaintiffs in this action, such liability and damages will have arisen out of and have been contributed to in all or in part by the negligence, careless and recklessness of the decedent, FRANCES DELANCEY WASHINGTON, and in such event the answering defendant demands judgment over and against said the Estate of FRANCES DELANCEY WASHINGTON, in indemnity and /or contribution, for the amount of any verdict or judgment which shall or may be had against the answering defendant in this action, together with all costs and expenses which may be incurred in the defense of this action.

WHEREFORE defendant NATIONAL FREIGHT, INC. demands judgment dismissing the plaintiffs Verified Complaint, and further demands judgment on the counterclaim as against the plaintiff, Estate of FRANCES DELANCEY WASHINGTON, in whole or in part as to any verdict or judgment that may be rendered against it, together with the costs and disbursement of this action.

Dated: White Plains, New York
June 10, 2008

GOLDBERG SEGALLA LLP



MICHAEL D. SHALHOUB (MS 2879)

Attorneys for Defendant

NATIONAL FREIGHT, INC.

170 Hamilton Avenue, Suite 203

White Plains, New York 10601

(914) 798-5400

GS File No.: 6099.0001

To: Matthew R. Kreinces, Of Counsel (2724)
ROURA & MELAMED
Attorneys for Plaintiffs
Office & P.O. Address
233 Broadway – Suite 2700
New York, New York 10279
(212) 227-6821
File No.: RM-13706

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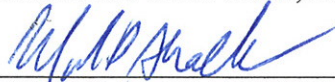
Washington v. National Freight, Inc., et al.
Docket No.: 08-Civ-4566
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CERTIFICATE OF SERVICE

I hereby certify that on June 10, 2008, a copy of the **ANSWER** was filed electronically, and served by mail upon anyone unable to accept electronic filing, at the addresses listed below. Notice of this filing was will be sent by e-mail to all parties by operation of the Court's electronic filing system or by mail to anyone unable to accept electronic filing as indicated on the Notice of Electronic Filing. Parties may access this filing through the Court's CM/ECF System.

Matthew R. Kreinces,
Of Counsel (2724)
ROURA & MELAMED
Attorneys for Plaintiffs
Office & P.O. Address
233 Broadway – Suite 2700
New York, New York 10279
(212) 227-6821
File No.: RM-13706

GOLDBERG SEGALLA, LLP



MICHAEL D. SHALHOUB, ESQ. (MS 2879)

Attorneys for Defendant
NATIONAL FREIGHT, INC.,
170 Hamilton Avenue, Suite 203
White Plains, New York 10601
Phone: (914) 798-5400
Fax: (914) 798-5401